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December 9, 1999

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

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Magalie R. Salas, Secretary  
Federal Communications Commission  
445 Twelfth Street, SW, Room TW-A 325  
Washington, DC 20554

**Re: Notice of oral and written *ex parte* communication  
Service Rules for the 746-764 and 776-794 MHz Bands  
(WT Docket No. 99-168)**

To the Secretary:

On December 9, 1999, the American Mobile Telecommunications Association, Inc. ("AMTA," the Association") made an oral and written *ex parte* communication concerning the above-referenced proceeding to Ari Fitzgerald, Legal Advisor to Chairman William E. Kennard. The purpose of the meeting was to discuss AMTA's position in the above-referenced proceeding. To aid in the discussion, AMTA submitted a list of points – the list is attached to this Notice.

The Association recommends that the FCC allot a portion of the commercial spectrum in the 746-806 MHz band to non-consumer wireless services. By restricting provision of service to Part 90 eligibles, the Commission can ensure that this spectrum is devoted to private wireless use, while meeting the "commercial" designation imposed by statute.

With such an allocation, the FCC can meet twin goals of providing additional spectrum for private wireless use, while providing an opportunity for small business. AMTA noted during the meeting that creation of rules for this spectrum that encourage competition should mitigate the need for restrictions on its use by eventual licensees.

The Association stressed that the size of licenses is key to the likely outcome of the licensing process. The specialized wireless industry is not likely to participate in an auction of spectrum unless geographic areas are reasonably small. Moreover, the needs of most private land mobile users are best met in smaller areas. While

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Magalie R. Salas, Secretary  
December 9, 1999  
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AMTA's preference is for EA-based licenses, the Association recognizes that MEAs may be the optimum size as a compromise to meet time constraints.

The Association does not suggest limitations on the eligibility of bidders in an auction of "guard band" spectrum between broadband commercial and public safety allocations. It also believes that a Band Manager allocation would be compatible with its proposal, so long as Band Manager eligibility is open to commercial operators.

AMTA members have indicated a preference for flexibility in Band Manager rules, to allow either construction and operation of a system, sub-leasing to private wireless entities, or a combination of both to meet specialized needs. As commercial operators serving a variety of customers, specialized wireless providers do not have an incentive to discriminate between customers seeking service on a third-party system and those seeking sub-licensed spectrum for a fee. However, the Association would encourage a rules provision requiring non-discriminatory treatment of Part 90 eligibles seeking service.

Further details of AMTA's proposal are included in the attached list of discussion points. Pursuant to Section 1.1206(b) of the Commission's Rules and Regulations, 47 C.F.R. § 1206(b), an original and one copy of this Notice are provided.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Jill M. Lyon", with a long horizontal flourish extending to the right.

Jill M. Lyon  
Senior Vice President for Regulatory Relations  
& Deputy General Counsel

Enclosure

cc: (without enclosure)  
Ari Fitzgerald, Esq.

December 6, 1999

**Service Rules for the 746-764 and 776-794 MHz Bands  
(WT Docket No. 99-168)  
Discussion Points**

1. AMTA advocates in this proceeding an allocation of 6 megahertz from the referenced spectrum bands for non-consumer wireless services. The Association asserts that such an allocation will meet the FCC's desire to provide more spectrum for private wireless use while retaining the "commercial" designation imposed by Congress.
2. Specialized commercial wireless systems traditionally provide service to Part 90 eligibles, the private users that the FCC wishes to accommodate. The industry suffers from a shortage of spectrum that could be alleviated with the recommended allocation, if rules are crafted to encourage participation by other than a few large entities.
3. While AMTA members are very interested in providing service to private wireless users in this spectrum, they and other potential small business entrants will not participate in an auction if licenses are perceived to be too large to purchase. To increase the number of parties in an auction, AMTA recommends licenses with small amounts of spectrum: a combination of 1 MHz, paired (2 MHz total) and .5 MHz, paired (1 MHz total), each. This amount of spectrum will still allow licensees to select from a broad range of technical and operational options.
4. The geographic size of licenses will also be determinative of who will participate in an auction. AMTA recommends the smallest size possible given time constraints: we urge strongly that MEAs be chosen over regions, but would prefer EA-based licenses.
5. AMTA's members support a restriction on service in the resulting band to Part 90 eligibles, and are not opposed to a restriction against interconnection of licensed systems with the public switched network, to retain PMRS regulatory status.
6. The Association also supports the FCC's Band Manager concept as believed to be developing. AMTA members would be interested in bidding for Band Manager licenses if the allocations incorporated a reasonable geographic area.

7. AMTA's members have indicated their interest in maximum flexibility for Band Manager licensees: to "sub-lease" spectrum to private wireless eligibles, to construct and operate systems of their own, or both.
8. AMTA does not oppose Motorola's proposed allocation in four bands between "broadband" commercial and Public Safety allocations. However, the Association agrees with Motorola that significant portions of these guard bands would be of limited use due to interference from adjacent commercial systems.

AMTA thanks the Commission for the opportunity to discuss its position, and will be happy to discuss these issues further.